(83)

HIGH COURT OF JUDICATURE CHHATTISHGARH : BILASPUR

Single Bench : Hon'ble Shri S.R. NAYAK,

Writ Petition NO. 5258/1998

PETITIONER

Vijay Kumar Agrawal,
S/o. Shyam Chandra Agrawal,
Aged about 39 years,
R/o. Village Chandrapur,
Dist. Bilaspur, (MP).

Versus

RESPONDENTS

1. Sub Divisional Officer (Revenue)
   Sakti District Bilaspur (MP).

2. Naib Tahsildar,
   Dabhra,
   District Bilaspur (MP).

3. Bachhu Ram,
   S/o. Sihasan,
   R/o. Village Chandrapur,
   District Bilaspur (MP).

4. Gurbari Bai,
   D/o. Bachhu Ram,
   R/o. Village Chandrapur,
   District Bilaspur (MP).

Present :

Mr. B.D. Guru, learned counsel for the petitioner.

Mr. Shrawan Chandel, learned counsel for respondents 3 & 4.

ORAL ORDER

(Passed on 6th December, 2005)

The litigations between the parties are in several sounds and voluminous. There is no need to refer to all those previous litigations between the parties. Suffice it to state that the petitioner herein questions the caste status of the fourth respondent. On an earlier occasion when the caste certificate issued in favour of the fourth respondent by Naib

Tahsildar was assailed, this Court having opined that the Naib Tahsildar is not competent authority to issue the certificate permitted the petitioner to make a representation to the Sub Divisional Officer and accordingly the petitioner made an application before the Sub Divisional Officer, Sakti. The Sub Divisional Officer by his order dated 19/04/1997 rejected the application. When that order was again called in question in W.P. No.1776 of 1997 before the High Court, the Court refused to entertain the writ petition by observing that the petitioner could work out his legal remedies by way of a suit before the jurisdictional Civil Court. At the time of hearing, Mr. Guru, learned counsel for the petitioner would state that as permitted by the Court the petitioner instituted the suit in the Court of Civil Judge, Class-II, Sakti and that suit was dismissed by a judgment and decree dated 24/10/1997. Being aggrieved by the said judgment and decree, the petitioner preferred an appeal, Civil Appeal No.39-A of 1997 to the Court of Additional District Judge, Sakti and the same was also dismissed by the judgment and decree dated 15/10/1998. Being aggrieved by the said judgment and decree of the first appellate Court, this writ petition is filed under Articles 226 and 227 of the Constitution of India. I am at a loss to understand how this writ petition is maintainable under Articles 226 and 227 of the Constitution of India. If the petitioner is aggrieved by the judgment and decree passed by the learned appellate Judge in Civil Appeal No.39-A of 1997, he ought to have worked out his further legal remedies before this Court by way of second appeal. The writ petition is, therefore, dismissed as not maintainable. There shall be no order as to costs.

Sd/-
Chief Justice

Brajesh